THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7792 of 2007

20.4.2007

Between:

Madiwada Ankineedu, S/o.Krishna Murthy

... Petitioner

AND

The District Panchayat Officer, Krishna at Machilipatnam
And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7792 of 2007

ORDER:

The petitioner is resident of Avanigadda. Aggrieved by the inaction of Challapalli Gram Panchayat in not conducting auction to lease out the right to collect market levy (Asil), he filed the present writ petition. It is his case that prior to 2002-2003, Gram Panchayat was conducting public auction to lease out the right to collect Asil, but thereafter auction was not conducted and the lease was not extended. He filed W.P. No.6077 of 2006 seeking a declaration that the action of the Gram Panchayat and other respondents in not conducting auction as illegal and arbitrary. This Court disposed of the said writ petition on 09.6.2006 directing to conduct public auction for leasing out weekly shandy. Petitioner alleges that the Gram Panchayat did not conduct auction and disobeyed the order of this Court. He then filed C.C.No.408 of 2006 which was closed by this Court in view of the directions in W.P.No.6077 of 2006.

The Gram Panchayat advertised the leasehold rights for 2007-2008 on 12.3.2007. The upset price is fixed at Rs.5.00 lakhs. As no bidder participated in the auction, auction was postponed. Petitioner approached the Gram Panchayat and submitted representation offering Rs.4.00 lakhs. The same was not considered. Therefore, he filed the present writ petition.

Learned Counsel for the petitioner reiterates the submissions, which were also taken in the affidavit accompanying the writ petition. After getting instructions, learned Standing Counsel for the Gram Panchayat submits that earlier when the lease was given to petitioner, number of small merchants gave complaints against him and, therefore, his request for leasing out the market was not considered. He further submits that at present Gram Panchayat itself is collecting

Asli in weekly shandy and there is no proposal to conduct public auction. He however has no objection for the participation of the petitioner as and when auction is conducted.

In spite of repeated queries, learned Counsel for the petitioner has not placed before this Court any mandatory procedure either under the statute or by way of executive instructions compelling the Gram Panchayat to conduct public auction. Therefore, this Court observes that the Gram Panchayat may approach the District Collector/Government and obtain necessary instructions before conducting auction. In any event, if acution is conducted, it shall be open to the petitioner to participate in the auction. He cannot however compel the Gram Panchayat to grant leasehold rights in his favour without conducting public auction.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

April 20, 2007.

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